

SEPTEMBER 12, 2001

WINTHROP UTILITIES DISTRICT
Request for Approval of Special Rate
Contract for Sale of Water to the
Monmouth Water Association

ORDER APPROVING AGREEMENT

WELCH, Chairman; NUGENT and DIAMOND, Commissioner

I. SUMMARY OF DECISION

On May 18, 2001 the Winthrop Utilities District (District) filed a request for approval of an Agreement for Potable Water Service (Agreement) between it and the Monmouth Water Association (Association) pursuant to 35-A M.R.S.A. §703(3). The Agreement is appended hereto as Attachment A. In this Order, we find that the Agreement reasonably meets the needs of the District and the Association and is consistent with the interests of the District's other ratepayers. Accordingly, we approve the Agreement.

II. BACKGROUND

WINTHROP UTILITIES DISTRICT

The District serves approximately 992 customers in Winthrop. The District's distribution system extends down Route 202 to just beyond the Monmouth-Winthrop town line. The water main at that location is 8-inch ductile iron (D.I.) pipe. The pipe size increases to 12-inch pipe near the Progressive Distributors' Facility. The District staff also operates the Monmouth water system under a contract with the Association.

The hydraulic capacity of the District's water treatment facility is 600,000 gallons per day (gpd). The average-day demand in Winthrop is approximately 200,000 gpd (212,903 gpd in the year 2000). Demands in the Winthrop water system have decreased considerably since the Cascade Woolen Mills closed. The water treatment facility was constructed in 1993 with financing over a 20-year period.

Treated surface supplies such as the Winthrop water supply will be required to meet the requirements of EPA's proposed Enhanced Surface Water Treatment Rule. This is a major regulation that will probably impact future water rates in Winthrop.

MONMOUTH WATER ASSOCIATION

The Association serves approximately 200 customers in Monmouth. The community uses approximately 48,000 gpd (50,025 gpd in the year 2000) on an average day. Maximum-day demands are as high as 60,000 gpd during the summer months.

The water system is supplied water from two active, drilled bedrock wells located along Route 132 in Monmouth. In addition, an abandoned well located near the storage reservoir on Academy Road has historically provided additional supply for the system.

In 1998, the two active wells began experiencing a significant reduction in pumping capacity. The Association retained Emery and Garrett of Waterville, Maine to investigate the flow capacity of the two active wells. The study found that the well supplies had a safe yield of approximately 30 gallons per minute (gpm) (43,200 gpd) along with water quality problems. In addition to insufficient yield, the wells are also high in arsenic.

The Association then commissioned a second study to identify alternate sources of supply within its service area. The second study entitled "Sanborn Test Well Site, Cobbosseecontee Road – Monmouth, Maine" identifies a well site with a safe pumping capacity of approximately 48,500 gpd on the Sanborn property. The site had potential for development of a well but negotiations with the landowner were discontinued when no agreement could be reached to develop the site for a new well supply.

The Association has identified, through additional studies, a groundwater favorability zone for further exploration on the "Chick Property" on the south end of the water system. Before proceeding with the groundwater exploration the Association commissioned an engineering feasibility study by Earth Tech, an engineering firm with offices in South Portland. That study considered two alternatives for water supply, possible interconnection with the Winthrop Water District and a new bedrock well located on the "Chick Property" off Main Street.

The feasibility study considered four alternative routes from the District interconnection to the Association's system. The study also considered two alternatives for a new 100 gpm bedrock well. We note that the well estimates did not include the costs for arsenic disposal which the engineers report to be cost prohibitive. The engineers further adjust the cost estimates to include the \$28,000 annual cost of an additional operator for the arsenic treatment facility not including the disposal costs for the waste itself. The addition of \$28,000 the two well alternatives yields estimated annuals costs of \$81,500 for Alternative 1 and \$87,400 for Alternative 2. Those annual costs for the wells exceed the estimated annual cost for all four interconnection alternatives without considering the prohibitive cost of disposal of the arsenic wastes.

II. DISCUSSION AND DECISION

The District, under the proposed contract, commits to supply the Association up to an average daily flow of 150,000 gpd and up to a maximum daily flow of 180,000. The rate established by the contract is 90% of the District's "published highest volume consumption tariff rate on file with MPUC" (90% of the trailing block rate). The District's current rate for that block is \$2.15 per hundred cubic feet, which yields a contract rate of \$1.935 per hundred cubic feet. The Association is not required to pay a minimum bill or to purchase a minimum amount of water. The agreement has an initial term of 20 years beginning on the date it is approved by the Public Utilities Commission.

In evaluating the need to enter into a special rate contract with any customer, the District should independently evaluate the economic and technical feasibility of any alternative water supply and, given the totality of circumstances, the likelihood of that customer's pursuit of such a course. The District should only consider negotiating a special rate contract if a technically feasible alternative supply would cost less than obtaining service from the District, and it appears likely that the customer will pursue the alternative. In negotiating a special rate, however, the District must ensure that the rate exceeds its marginal costs.

The District provided a calculation of its marginal costs, which it determined to be \$1.72 per hundred cubic feet. The proposed contract rate (\$1.935) will exceed the marginal costs by \$0.215 per hundred cubic feet.

It does not appear, based upon the feasibility study and subsequent letters, that the Association has a technically feasible and economic alternative to water service from the District and therefore fails to meet the criteria the Commission has established for approval of special rate contracts. We note, however, that the Association and District are neighboring utilities that have a history of cooperation and could mutually benefit from the proposed agreement. The Association must resolve its problem of frequent water shortages and water quality concerns while the District has excess capacity because it has lost a large user. These considerations cause us to accept the judgment of the District Trustees in entering into the Agreement.

We approve the Agreement because it provides a reasonable resolution to the extraordinary circumstances facing the District and the Association. Because the Agreement may allow the District to keep its rates stable, we find that approval of the Agreement is consistent with the interests of the District, the Association and the District's other ratepayers.

Our approval here should not be viewed as precedent concerning our treatment of special rate contracts. *See, e.g., Searsport Water District, Proposed Increase in Rates*, Docket No. 97-793, Order at 11 (July 23, 1998). Rather, we base our decision on the unique circumstances facing the District and the Association and our finding that the Agreement is consistent with the interests of the District, the Association and the District's other ratepayers.

Accordingly, we

O R D E R

That the Agreement for Potable Water Service Between Winthrop Utilities District and Monmouth Water Association filed with the Commission on May 18, 2001, is approved consistent with this Order.

Dated at Augusta, Maine this 12th day of September 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.